

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

v.

This Document Relates To:

All Cases

MDL No. 2419
Master Docket: 1:13-md-2419-RWZ

**MOTION FOR LEAVE TO WITHDRAW
AS COUNSEL FOR LIBERTY INDUSTRIES, INC.**

Pursuant to Local Rule 83.5.2(c), the firm of Hermes, Netburn, O'Connor & Spearing, P.C., and individual attorneys Peter G. Hermes, Scott S. Spearing, and Kara A. Lordinas (collectively, "HNOS"), hereby move to withdraw as counsel for Liberty Industries, Inc. ("Liberty") in the above-referenced matter. There is good cause for this Motion because: (1) Liberty has been released from further prosecution of the cases in this MDL; and (2) Liberty's insurance carrier has no further obligations to Liberty and will no longer pay HNOS to represent it. In further support of this Motion, Liberty states the following:

1. On April 20, 2015, Liberty, its insurer, Great American E&S Insurance Company ("Great American"), and Paul D. Moore, Chapter 11 Trustee (the "Trustee) for New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center ("NECC"), entered into the Liberty Settlement and Release Agreement (the "Liberty Settlement") [MDL Dkt. No. 1784-1]. The Trustee agreed that upon approval of the Chapter 11 Plan of NECC in In re New England Compounding Pharmacy, Inc., U.S. Bankruptcy Court for the District of Massachusetts,

Case No. 12-19882-HJB, Liberty and Great American would become beneficiaries of the general releases and plan injunctions provided thereunder.

2. On May 19, 2015, the United States Bankruptcy Court for the District of Massachusetts entered an order approving the Liberty Settlement [Bankruptcy Dkt. No. 1349]. On May 20, 2015, it entered an order approving and confirming the Third Amended Joint Chapter 11 Plan of NECC (the “Plan”) [MDL Dkt. Nos. 1890 and 1890-1]. The Plan is final and no longer subject to appeal, and the releases and channeling injunctions went into effect on June 4, 2015. Pursuant to the Liberty Settlement and the Plan, Liberty has been released from the cases brought against it in this MDL, and any future claims against Liberty concerning, arising from, or relating to NECC or its products have been permanently barred. See Sections 10.05 and 10.06 of the Plan. Accordingly, this litigation as to Liberty has, for practical purposes, concluded.

3. HNOS was retained and paid by Great American to defend Liberty. Pursuant to the Liberty Settlement and the Plan, any defense obligation owed by Great American to Liberty terminated as of the effective date of the Plan on June 4, 2015, and Great American has no further obligations to Liberty in this matter. Accordingly, it will no longer pay HNOS to represent Liberty. Liberty has been informed of and does not object to the requested withdrawal of HNOS as counsel. Liberty is, and will continue to be, represented by personal counsel, Nicole D. Dorman, in this matter.

Accordingly, because this litigation has, for practical purposes, resolved and because HNOS will no longer be paid to represent Liberty, HNOS asks this Court for leave to withdraw as counsel for Liberty.

Respectfully submitted,

/s/ Peter G. Hermes

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Dated: September 8, 2015

ATTORNEYS FOR LIBERTY INDUSTRIES,
INC.

CERTIFICATE OF SERVICE

Pursuant to Local Rules 5.2(b)(2) and 5.4 of the Local Rules of the United States District Court for the District of Massachusetts, I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on September 8, 2015.

/s/ Peter G. Hermes

Peter G. Hermes